

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: BAIR HUGGER FORCED AIR MDL No.: 15-md-02666 (JNE/FLN)
WARMING PRODUCT LIABILITY
LITIGATION

This Document Relates To:

DONNA WEAVER,

Civil Action No.: 17-CV-04754-JNE-DTS

Plaintiff,

PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS

NOW COMES Plaintiff, Donna Weaver, identified in Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1538], and by and through undersigned counsel submits this, her Response to Defendants' Motion to Dismiss, and would respectively show the Court the following:

FACTS

In October of 2015, Ms. Donna Weaver contacted undersigned counsel regarding an infection and subsequent treatment that he experienced due to the use of a Bair Hugger patient warming device during an orthopedic surgery. Counsel worked to obtain medical records and billing records to move forward with the case. Those records indicated that a Bair Hugger device was used during the original surgery. On October 20, 2017, counsel filed the current action to comply with what was identified as the applicable statute of limitations deadline for the relevant claim.

Efforts to have Ms. Weaver complete the Plaintiff Fact Sheet have been complicated by the inability to contact the client. Counsel for Plaintiff believe that additional time could allow them to contact Plaintiff and complete the Plaintiff Fact Sheet. While counsel has diligently continued their attempts to contact Ms. Weaver for several months, those efforts have not been successful to date. As a result, counsel has not been able to obtain the necessary information to complete the Plaintiff Fact Sheet for this claim.

CONCLUSION

Accordingly, undersigned counsel request that the current action not be dismissed with prejudice and that Ms. Weaver be given an additional sixty (60) days to contact counsel in order to provide the necessary information to cure any alleged deficiencies with the Plaintiff Fact Sheet and to continue the case.

Dated: October 10, 2018

KENNEDY HODGES, LLP

By: /s/ David W. Hodges
David W. Hodges
dhodges@kennedyhodges.com
Gabriel A. Assaad
gassaad@kennedyhodges.com
4409 Montrose Blvd. Ste 200
Houston, TX 77006
Telephone: (713) 523-0001
Facsimile: (713) 523-1116

ATTORNEYS FOR PLAINTIFF